

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KIRK E. CALLOW,

Plaintiff,

v.

ORDER

18-cv-371-bbc

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY, S.I.,

Defendant.

This civil case is before the court on defendant American Family Mutual Insurance Company's motion to dismiss the case on the ground that plaintiff Kirk E. Callow failed to complete service of process within the 90 days allowed for filing under Fed. R. Civ. P. 4(m). Plaintiff filed its complaint on May 17, 2018, but did not take any action to have the complaint filed. On July 24, 2018, plaintiff filed an amended complaint, which was served on August 17, 2018.

On September 7, 2018, defendant filed its motion to dismiss, asserting that plaintiff's amended complaint was untimely because it was not filed until 92 days after the filing of the original complaint. Plaintiff responded on September 14, 2018, acknowledging the missed deadline and seeking relief under Fed. R. Civ. P. 6(b) in the form of an extension of time of two days. Plaintiff contends that the filing delay was the result of excusable neglect, caused by counsel's having been out of the office for large portions of the summer, caring for her

special needs son. In light of plaintiff's explanation of the reason for her delay, defendant's motion to dismiss will be denied.

ORDER

IT IS ORDERED that plaintiff Kurt E. Callow's motion to extend the time for service of his answer is GRANTED and defendant American Family Mutual Insurance Company's motion to dismiss this case is DENIED.

Entered this 17th day of September, 2018.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge